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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,252	07/02/2001	Lawrence Haar		7723

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EXAMINER

OYEBISI, OJO O

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/895,252

Applicant(s)

HAAR, LAWRENCE

Examiner

OJO O. OYEBISI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 19 is objected to under 37 CFR 1.75(c) as being in improper form because of its multiple dependency i.e., claim 19 depends from both claims 1 and 17. See MPEP § 608.01(n). Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what steps constitute the claimed method described in claims 1-18.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al (Walker hereinafter, US PAT: 5,797,127).

Re claim 1. Walker teaches a method of reducing the risk to providers of airline tickets and users of such tickets arising from price fluctuations comprising an Exchange through which such providers and users as well as speculators and arbitrageurs can

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enter into futures and options transactions relating to prices charged for airline travel and an index or indices for predetermined periods of time being the weighted average for the prices of flight tickets between specified locations (see abstract, see summary of the invention, also see col.7 lines 10-30).

Re claims 2 and 3. Walker further discloses a method as claimed in claim 1 in which said Exchange incorporates and uses information technology to and through which the providers, users and speculators can communicate with regard to purchasing and selling of positions on the Index or Indices, as well as learn of the values, both historic and latest, of the said Index or Indices (see fig.2, see fig.3, also col.4 lines 25-65).

Re claims 5, 6, and 7. Walker further discloses a method as claimed in claim 1 wherein said determined locations are two airports; are two regions; predetermined airports between which aircraft fly (i.e., pricing of the options may be based on departure location criteria, destination location criteria, and travel criteria. see the abstract).

Re claim 8. Walker further discloses a method as claimed in claim 1 wherein the said periods are particular days (see col.6 lines 40-60, also see col.3 lines 10-20).

Re claim 9. Walker further discloses a method whereby a seller of airline tickets can protect itself against losses due to the prices of airline tickets between specified locations falling on or before a future date, comprising communicating through an Exchange with buyers of airline tickets wishing to protect themselves against losses due to the prices of airline travel between specified locations increasing, or other parties wishing to speculate on the value(s) of the Index or Indices, and which involves an

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Index or Indices for predetermined periods being the weighted average for flight tickets between said locations (see abstract, see summary of invention, also see col.7 lines 10-30); offering through said Exchange to sell futures or options on the Index or Indices for such future dates at a price corresponding to a magnitude prevailing at the date of sale; settling with the Exchange within a specified time period related to the prices of an Index or Indices on a future date, such settlement consisting of: paying in monies relating to the Index or Indices on or before the said future contract expiry date if this rises relative to the said Index at the date of offer (i.e., exercise the option, see col.8 lines 1-30, also see fig.6); or receiving monies from the Exchange relating to the Index on or before the said future contract expiry date if this falls relative to the said Index at the date of the offer (i.e., exercise the option, see col.8 lines 1-30) (see col.7 line 1 – col.8 line 65, see fig.5, also see fig.6).

Re claim 10. Walker further discloses a method as claimed in claim 9 in which the Exchange uses computer technology and the sellers of airline tickets and the buyers of airline tickets and speculators on the Index or Indices of uses their respective information technologies to communicate through the Exchange (see fig.2, see fig.3, also col.4 lines 25-65), using brokers and agents as required, with regard to the purchasing and selling of futures and options position on said Index or Indices (i.e., a third party can issue the option, see col.8 lines 38-45) as well as to learn of the values at which the Index or Indices are being quoted and being traded, and other such information which buyers and sellers of airline tickets, and other parties such as speculators would find of relevance.

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Re claims 11 and 12. Walker further discloses a method as claimed in claim 9 wherein said date related to the said future date is the same date as said future date (i.e., a particular date, see col.3 lines 10-30, also see col.6 lines 40-60)

Re claim 13. Claim 13 recites similar limitations to claim 9 and thus rejected using the same art and rationale in the rejection of claim of 9.

Re claim 14. Walker further discloses a method as claimed in claim 13 in which the Exchange has a main computer and other information technology and the user, buyers or sellers of futures positions on the Index or Indices or buyers or sellers of options on the Index of Indices, as well as their designated agents and brokers, have their own computers, and other information technology, through which communication occurs between buyers, sellers, and the Exchange (see fig.2, fig.3, fig.5, fig.6, also see col.7 lines 45-65).

Re claims 15 and 16. Walker further discloses a method as claimed in claim 14 wherein said date related to the said future date is the same date as said future date (i.e., a particular date, see col.3 lines 10-30, also see col.6 lines 40-60)

Re claim 17. Walker further discloses One or more Index or Indices computed using the number of seat weighted average(s) re-based to an arbitrary value (i.e., base option price, see col.7 lines 5-30), such as one-hundred (100), which show the prices of airline travel on specified dates between specified destinations, and through its adjustment over time to reflect changes in prices on offer, will show changes in the prices of airline travel, between specified destinations on specified dates (see col.7, lines 5-30).

Re claim 18. Claim 18 recites similar limitations to claim 9 and thus rejected using the

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same art and rationale in the rejection of claim of 9.

Re claim 19. Walker further discloses Futures, Options, Futures on Options, Options on Futures and other such derived or derivative securities relating to said Index or Indices which may be traded, bought, sold, as claimed in 17, on or through the Exchange, as claimed in claim 1, for the purposes of hedging, speculating, arbitrage, as per claim 1 (see abstract, also see summary of invention).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker.


Re claim 4. Walker does not explicitly disclose a method as claimed in claim 1 in which the Exchange charges persons using the Exchange a commission on transactions made through the Exchange relating to said Index or Indices of claim 1. However, it is old and well known that established exchange charges commission on transactions that transpire between the trading parties. Thus it would have been obvious to one of ordinary skill in the art to incorporate what is old and well known in the established exchange into Walker so that the provider of the exchange platform can be compensated for the their services.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571) 272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HYUNG S. SOUGH can be reached on (571)272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


HYUNG SOUGH
SUPERVISORY PATENT EXAMINER
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